

**REMARKS**

Applicant has carefully reviewed this Application in light of the Final Office Action mailed February 4, 2004. Claims 1-24 are pending in this Application. Claims 1-7 and 10-24 stand rejected under 35 U.S.C. §102(b) and Claims 8 and 9 stand rejected under 35 U.S.C. §103. Applicant has amended Claims 1 and 3 to further define various features of Applicant's invention. Applicant respectfully requests reconsideration and favorable action in this case.

**Rejections under 35 U.S.C. §102**

Vasudev Reference

Claims 1-5 and 11-21 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,472,811 issued to Prahalad K. Vasudev et al. ("Vasudev").

Applicants respectfully traverse and submit that Vasudev does not anticipate the claims of the present application. Among other reasons, Independent Claims 1, 11, 16 and 21, as amended, include features not taught or suggested by Vasudev. For instance, Claims 1, 11, 16, and 21 recite a photomask (or a method of manufacturing a photomask) with a patterned absorber layer formed thereon, as well as a transmission balancing layer formed over the photomask (including the patterned absorber layer).

The Vasudev reference instead teaches a phase shifting mask with trenches (referred to as phase shifting regions 12 and 13) formed therein. See Col. 4, lines 4-8. Vasudev, further teaches the application of a multilayer optical coating atop the phase shifting photomask. See Col. 4, lines 8-20. Clearly, Vasudev is limited to teaching the application of a specific optical coating onto a phase shifting mask (without an absorber layer) and does not teach the application of a transmission balancing layer as recited by the present invention.

Accordingly, Applicants submit that Vasudev cannot anticipate Claims 1, 11, 16 and 21 or Claims 4-5, 12-15, or 17-20 that depend therefrom. Applicants request Examiner to withdraw the rejection to Claims 1-5 and 11-21 under §102(b).

Scott Reference

Claims 1-7 and 10-24 stand rejected by the Examiner under 35 U.S.C. §102(b) as

being anticipated by U.S. Patent No. 5,935,733 issued to Charles R. Scott et al. ("Scott"). Applicants respectfully traverse and submit that Scott does not anticipate the claims of the present application. Among other reasons, Independent Claims 1, 11, 16 and 21, as amended, include features not taught or suggested by Scott. For instance, Claims 1, 11, 16, and 21 recite a photomask with a patterned absorber layer formed there on, as well as a single transmission balancing layer formed over the photomask (including the patterned absorber layer).

Scott teaches a phase shift mask (Col. 11, line 50- Col 14, line 50). The phase shift mask includes a transmissive material deposited on a substrate. See Col 11, lines 55-67. Absorbing elements are deposited into trenches formed in the transmissive material. See Col. 12, lines 5-26. Phase shift materials are also deposited in the trenches via a blanket deposition—however, Scott requires that the phase shift materials be planarized such that "*the top surface of the phase shift portion 54 is planar with the top surface of transmissive material portion 52*" (emphasis added). Col. 13, lines 28-45. Accordingly, the teachings of Scott with respect to phase shift masks is limited to absorbing materials deposited within trenches and to depositing phase shift materials that are planarized to the level of the transmissive layer. Scott teaches away from the present invention by teaching the planarization of the phase shift materials (thereby teaching away from having a single phase shift layer on the surface of the mask).

As such, Scott does not anticipate Claims 1-7 and 10-24 of the present disclosure. Accordingly, Applicants request Examiner to withdraw the rejection to Claims 1-7 and 10-24 based on Scott under §102(b).

#### **Rejections under 35 U.S.C. §103**

Claims 8-9 stand rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Vasudev et al. or Scott et al. Applicants submit that Claims 8 and 9 depend from an independent claim, Claim 1, that has been placed in condition for allowance. Accordingly, Applicants request that Examiner withdraw the rejection to Claims 8 and 9 under §103(a).

**CONCLUSION**

Applicant appreciates the Examiner's careful review of the application. Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. For the foregoing reasons, Applicant respectfully requests reconsideration of the rejections and full allowance of Claims 1-24 as amended.

Applicant believes no fee is due at this time, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2581.

Respectfully submitted,

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